

EXHIBIT 1

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
CHANCERY DIVISION**

MICHAEL DALY, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

NESTLE PURINA PETCARE COMPANY

Defendant.

Case No. **2023CH04129**

**CLASS ACTION
COMPLAINT**

JURY DEMANDED

Now comes the Plaintiff, MICHAEL DALY (“Plaintiff”), individually and on behalf of all others similarly situated, by and through his attorneys, and for his Class Action Complaint against the Defendant, NESTLE PURINA PETCARE COMPANY, (“Defendant”), Plaintiff alleges and states as follows:

PRELIMINARY STATEMENT

1. This is an action for damages, injunctive relief, and any other available legal or equitable remedies, for violations of Illinois Consumer Fraud and Deceptive Businesses Practices Act (“ILCFA”), 815 ILCS 505/1 *et seq.*, common law fraud, and unjust enrichment, resulting from the illegal actions of Defendant, in intentionally labeling its products with false and misleading claims that they are natural, when the products contain synthetic ingredients. Plaintiff alleges as follows upon personal knowledge as to himself and his own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by his attorneys.

PARTIES

2. Plaintiff is an individual who was at all relevant times residing in Lemont, Illinois.

3. Defendant is a Missouri corporation, whose principal place of business is located in St. Louis, Missouri.

4. At all times relevant hereto, Defendant was engaged in the marketing, manufacturing, and sale of pet food.

FACTS COMMON TO ALL COUNTS

5. Defendant manufactures, advertises, markets, sells, and distributes pet food throughout the United States.

6. During the Class Period Defendant sold the following pet foods (the “Products”) labeled, marketed, and advertised as containing natural but which contain the following synthetic ingredients:

a. Purina Beyond Grain-Free White Meat Chicken & Egg Recipe Cat Food: choline chloride, L-lysine monohydrochloride, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6), menadione sodium bisulfite complex (Vitamin K);

b. Beyond Simply Salmon & Whole Brown Rice Recipe Dry Cat Food: choline chloride, L-lysine monohydrochloride, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6), menadione sodium bisulfite complex (Vitamin K);

c. Beyond Simply Grain Free Wild-Caught Whitefish & Cage-Free Egg Recipe Dry Cat Food: DL-methionine choline chloride, L-lysine monohydrochloride, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6), menadione sodium bisulfite complex (Vitamin K);

d. Beyond Simply Indoor Cat Grain Free Wild-Caught Salmon, Egg & Sweet Potato Recipe Dry Cat Food: choline chloride, L-lysine monohydrochloride, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6), menadione sodium bisulfite complex (Vitamin K);

e. Beyond Simply White Meat Chicken & Whole Oat Meal Recipe Dry Cat Food: choline chloride, L-lysine monohydrochloride, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6), menadione sodium bisulfite complex (Vitamin K);

- f. Beyond Kitten Chicken & Oatmeal Recipe Dry Cat Food: choline chloride, L-lysine monohydrochloride, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6), menadione sodium bisulfite complex (Vitamin K), DL-methionine, L-ascorbyl-2-polyphosphate (Vitamin C);
- g. Purina Beyond Grain-Free Wild Salmon Pate Recipe Canned Cat Food: choline chloride, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6), menadione sodium bisulfite complex (Vitamin K), Calcium Pantothenate;
- h. Purina Beyond Grain-Free Trout & Catfish Pate Recipe Canned Cat Food: choline chloride, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6), menadione sodium bisulfite complex (Vitamin K), Calcium Pantothenate;
- i. Purina Beyond Natural Wild-Caught Tuna, Mackerel & Carrots Recipe in Gravy Canned Cat Food: Magnesium Proteinate choline chloride, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6), menadione sodium bisulfite complex (Vitamin K), Calcium Pantothenate;
- j. Purina Beyond Arctic Char & Spinach Pate Recipe Grain-Free Canned Cat Food: choline chloride, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6), menadione sodium bisulfite complex (Vitamin K), Calcium Pantothenate;
- k. Purina Beyond Wild Alaskan Salmon & Sweet Potato Recipe in Gravy Canned Cat Food: Magnesium Proteinate choline chloride, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6), menadione sodium bisulfite complex (Vitamin K), Calcium Pantothenate;
- l. Beyond Chicken, Beef & Carrot Recipe Wet Cat Food: choline chloride, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6), menadione sodium bisulfite complex (Vitamin K), Calcium Pantothenate;
- m. Beyond Cage-Free Turkey, Sweet Potato & Spinach Recipe in Gravy Wet Cat Food: choline chloride, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6), menadione sodium bisulfite complex (Vitamin K), Calcium Pantothenate;
- n. Beyond Grain Free Canadian Duck & Sweet Potato Recipe Paté Wet Cat Food: choline chloride, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6), menadione sodium bisulfite complex (Vitamin K), Calcium Pantothenate;
- o. Beyond Grain Free Line-Caught Alaskan Cod & Spinach Recipe Paté Wet Cat Food: choline chloride, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6), menadione sodium bisulfite complex (Vitamin K), Calcium Pantothenate;
- p. Beyond Wild-Caught Tuna, Wild Alaskan Cod & Carrot Recipe in Gravy Wet Cat Food: choline chloride, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6), menadione sodium bisulfite complex (Vitamin K), Calcium Pantothenate;

- q. Beyond Simply Farm-Raised Chicken & Whole Barley Recipe Dry Dog Food: choline chloride, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6), menadione sodium bisulfite complex, Calcium Pantothenate;
- r. Beyond Superfood Blend Wild-Caught Salmon, Egg & Pumpkin Recipe Dry Dog Food: choline chloride, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6), menadione sodium bisulfite complex, Calcium Pantothenate;
- s. Beyond Simply Grain Free White Meat Chicken & Egg Recipe Dry Dog Food: DL-methionine, choline chloride, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6), menadione sodium bisulfite complex, Calcium Pantothenate;
- t. Beyond Simply Farm-Raised Beef, Barley & Cage-Free Egg Recipe Dry Dog Food: DL-methionine, choline chloride, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6), menadione sodium bisulfite complex, Calcium Pantothenate;
- u. Beyond Simply Small Dog White Meat Chicken, Barley & Egg Recipe Dry Dog Food : L-lysine monohydrochloride, choline chloride, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6), menadione sodium bisulfite complex, Calcium Pantothenate;
- v. Beyond Puppy Chicken & Oatmeal Recipe Dry Dog Food: choline chloride, L-lysine monohydrochloride, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6), menadione sodium bisulfite complex (Vitamin K), L-ascorbyl-2-polyphosphate (Vitamin C), Calcium Pantothenate, Magnesium Protinate;
- w. Beyond Chicken, Carrot & Pea Recipe Ground Entrée Wet Dog Food: choline chloride, Calcium Pantothenate, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6);
- x. Beyond Farm-Raised Beef & Spinach Recipe in Gravy Wet Dog Food: choline chloride, Calcium Pantothenate, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6);
- y. Beyond Beef, Potato & Green Bean Recipe Ground Entrée Wet Dog Food : choline chloride, Calcium Pantothenate, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6);
- z. Beyond Cage-Free Chicken & Sweet Potato Recipe in Gravy Wet Dog Food: copper proteinate, choline chloride, Calcium Pantothenate, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6);
- aa. Beyond Cage-Free Turkey & Green Bean Recipe in Gravy Wet Dog Food: copper proteinate, choline chloride, Calcium Pantothenate, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6);

bb. Beyond Chicken, Pasture-Raised Lamb & Spinach Recipe Ground Entrée Wet Dog Food: choline chloride, Calcium Pantothenate, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6);

cc. Beyond Turkey & Sweet Potato Recipe Ground Entrée Wet Dog Food: choline chloride, Calcium Pantothenate, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6);

dd. Beyond Alaskan Cod, Salmon, and Sweet Potato Wet Dog Food: choline chloride, Calcium Pantothenate, thiamine mononitrate (Vitamin B-1), pyridoxine hydrochloride (Vitamin B-6);

7. All of the Products listed in Paragraph No 6. above are substantially similar because all Products are pet foods, all products contain the same false “natural” labeling, all Products contain at least the following challenged ingredients: choline chloride, thiamine mononitrate, and pyridoxine hydrochloride.

8. Plaintiff, like any reasonable consumer, expects that products advertised as natural will not contain synthetic ingredients.

9. Plaintiff, and reasonable consumers, understand the term “natural” based on common parlance, such that the term natural means as found in nature and not involving anything made or done by people.¹

10. Plaintiff, a reasonable consumer, reviewed the “natural” label on the front of the package, believed Defendant’s representation at face value based on common usage of the term natural, and purchased Defendant’s Product in reliance thereupon.

11. On February 26, 2022, Plaintiff purchased a bag of Dry Purina Beyond White Meat Chicken and Egg recipe dog food and a can of Purnia beyond Alaskan cod, salmon and sweet potato dog food from a Meijer, located at 755 E. Boughton Rd, Boling Brook, IL.

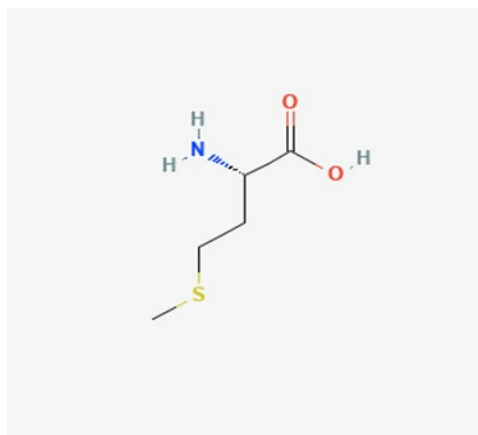
¹ Definition reflecting common parlance found at:
<https://dictionary.cambridge.org/us/dictionary/english/natural>

12. Choline chloride is a synthetic compound typically created through a reaction between trimethylene and chlorohydrin.²

13. DL-methionine is a synthetic version of L-methionine a naturally occurring amino acid.

14. An isomer is a molecule sharing the same atomic make up as another but differing in structural arrangements.³ Stereoisomers contain different types of isomers each with distinct characteristics that separate each other as different chemical entities with different chemical properties. *Id.* Stereoisomers differ from each other by spatial arrangement, meaning different atomic particles and molecules are situated differently in any three-dimensional direction by even one degree. *Id.* Enantiomers are a type of stereoisomer that are mirror-images and cannot be superimposed. *Id.* It can be helpful to think of enantiomers as right-hand and left-hand versions of the same molecule. D-methionine and L-methionine are enantiomers.

15. The figure below depicts L-methionine:

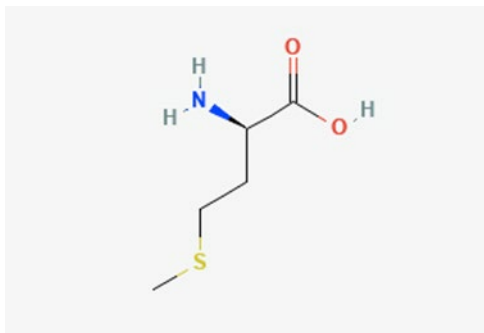


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² Ullmann's Encyclopedia of Industrial Chemistry. 6th ed. Vol 1: Federal Republic of Germany: Wiley-VCH Verlag GmbH & Co. 2003 to Present, p. V8 430 (2003)

³ Dan Chong and Johnathan Mooney, Chirality and Stereoisomers, (2019): [https://chem.libretexts.org/Bookshelves/Organic_Chemistry/Supplemental_Modules_\(Organic_Chemistry\)/Chirality/Chirality_and_Stereoisomers](https://chem.libretexts.org/Bookshelves/Organic_Chemistry/Supplemental_Modules_(Organic_Chemistry)/Chirality/Chirality_and_Stereoisomers).

16. The following figure depicts D-methionine:

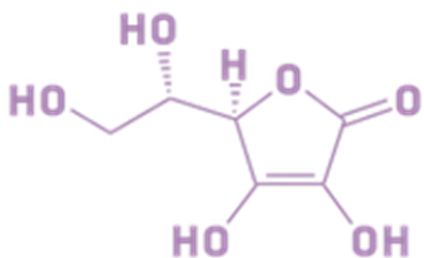


17. D-methionine is not found in nature, furthermore DL-methionine is a racemic mixture of D-methionine and L-methionine that does not exist in nature.

18. L-ascorbyl-2-polyphosphate is a synthetic derivative of vitamin C.⁴

19. The natural form of vitamin c is L-ascorbic acid typically created by an industrial fermentation process.⁵

20. The image below depicts the chemical structure of L-ascorbic acid:⁶



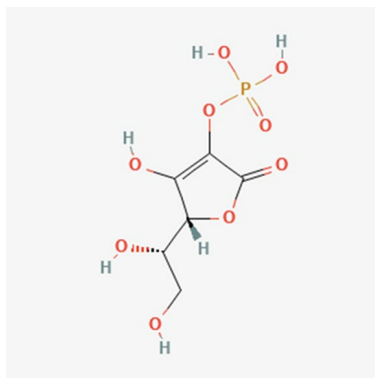
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⁴ Chemical information found at: <https://pubchem.ncbi.nlm.nih.gov/compound/L-Ascorbic-acid-2-phosphate#section=3D-Conformer>

⁵ Chemical information found at: <https://ods.od.nih.gov/factsheets/VitaminC-HealthProfessional/>

⁶ Chemical structure found at: <https://incidecoder.com/ingredients/ascorbic-acid>

21. The image below depicts the chemical structure of L-Ascorbyl-2-Phosphate, but with only one phosphate to make visualization easier:⁷



22. D-calcium pantothenate is a synthetic calcium salt derivative of pantothenic acid.⁸

23. Thiamine mononitrate is manufactured from thiamine hydrochloride, often by removing the chloride and mixing with nitric acid. Thiamine mononitrate is chemically and structurally different from natural thiamine, and the changes made between thiamine and thiamine mononitrate do not result from a natural process. Therefore, thiamine mononitrate is synthetic.

24. Pyridoxine hydrochloride is the hydrochloride salt of pyridoxine. The treatment of pyridoxine with hydrochloride acid to form a salt compound is not a natural process. Therefore, pyridoxine hydrochloride is synthetic.

25. L-Lysine hydrochloride is the product of an acidification reaction between l-lysine and hydrochloric acid.⁹

26. Menadione sodium bisulfite complex, also known as vitamin K3, is the synthetic analogue of vitamin K.¹⁰

27. Metal proteinates, such as magnesium proteinate, are created by chelation. Chelation is a chemical process of attaching organic molecules to a mineral in two or more places

⁷ Chemical information available at: <https://pubchem.ncbi.nlm.nih.gov/compound/L-Ascorbic-acid-2-phosphate>

⁸ Chemical information found at: <https://www.foodsweeteners.com/products/calcium-d-pantothenate/>

⁹ Chemical information found at: <https://www.chemengonline.com/l-lysine-hcl-production-glucose/>

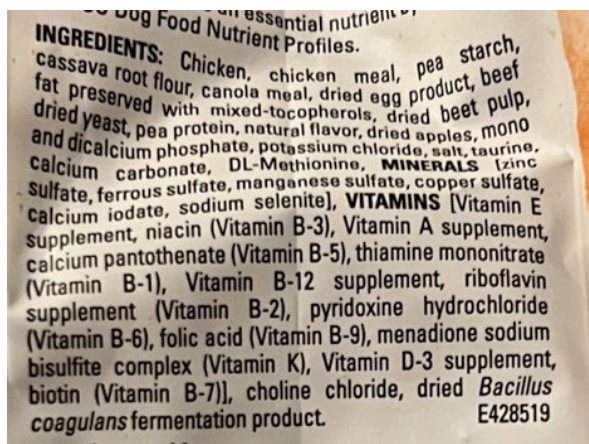
¹⁰ Chemical information found at: <https://www.fda.gov/animal-veterinary/safe-feed/vitamin-k-substances-and-animal-feed>

to form a ring.¹¹ Chelation is a man-made process, as a result magnesium proteinate and copper proteinate are not natural.

28. The following are examples of the Products' fraudulent labeling:



¹¹ Chemical information found at: <https://link.springer.com/article/10.1007/s13399-022-02333-3>



29. The front of the package of Plaintiff's dry dog Product clearly states, "Natural Dog Food". The back of the package of Plaintiff's dry dog food Product explicitly refers to the Product's ingredients as "natural, grain-free ingredients". The side label of the package of Plaintiff's dry dog food Product does not provide any indication that the challenged ingredients are synthetic.

30. Reasonable consumers, like Plaintiff herein, have an interest in purchasing products that do not contain false and misleading claims with regards to the contents of the Products.

31. By making false and misleading claims about the Products, Defendant impaired Plaintiff's ability to choose the type and quality of products he chose to buy.

32. Therefore, Plaintiff has been deprived of his legally protected interest to obtain true and accurate information about his consumer products as required by law.

33. As a result of Defendant's fraudulent labeling, Plaintiff and the Class have been misled into purchasing Products that did not provide them with the benefit of the bargain they paid money for, namely that the Products would be natural.

34. As a result of Defendant's fraudulent labeling, Plaintiff and the Class paid a price premium for a premium natural Product, but instead received a non-premium Product with synthetic ingredients.

35. Plaintiff and the Class purchased Defendant's Products because Defendant's advertising claimed that the Products were natural.

36. Furthermore, due to Defendant's intentional, deceitful practice of falsely labeling the Products as natural when they are not, Plaintiff could not have known that the Product contained synthetic ingredients.

37. Plaintiff was unaware that the Product contained synthetic ingredients when he purchased it.

38. Defendant, and not Plaintiff, the Class, or Sub-Class, knew or should have known that labeling, marketing, and selling the Products as natural was false, deceptive, and misleading, and that Plaintiff, the Class, and Sub-Class members would not be able to tell the Products they purchased contained synthetic ingredients unless Defendant expressly told them.

39. On information and belief, Defendant employs professional chemists to create the chemical formulas of Defendant's Products. Therefore, Defendant through its employees knew or should have known that challenged ingredients were synthetically created and that by adding them to its Products they would not be natural.

40. On information and belief, Defendant did know that Products contained synthetic ingredients but chose to label the Products as natural because it did not believe its customers were well educated enough to know the difference.

41. As a result of Defendant's acts and omissions outlined above, Plaintiff has suffered concrete and particularized injuries and harm, which include, but are not limited to, the following:

- a. Lost money;
- b. Wasting Plaintiff's time; and
- c. Stress, aggravation, frustration, loss of trust, loss of serenity, and loss of confidence in product labeling.

CLASS ALLEGATIONS

42. Plaintiff brings this action on behalf of himself and all others similarly situated, as a member of the proposed class (the "Class"), defined as follows:

All persons within the United States who purchased the Products within five years prior to the filing of the Complaint through the date of class certification.

43. Plaintiff also brings this action on behalf of himself and all others similarly situated, as a member of the proposed sub-class (the "Sub-Class"), defined as follows

All persons within the State of Illinois who purchased the Products within five years prior to the filing of the Complaint through the date of class certification.

44. The Class and the Sub-Class satisfy all of the requirements of the Illinois Code of Civil Procedure for maintaining a class action, specifically:

- a. Upon information and belief, the Class and the Sub-Class are so numerous that joinder of all members is impracticable. On information and belief there are hundreds, if not thousands of individuals in the United States and the State of Illinois who purchased the products within the applicable statute of limitations period.
- b. There are questions of fact and/or law which are common to the Class and the Sub-Class, and which predominate over questions affecting any individual Class or Sub-Class members. These common questions of fact and law include, but are not limited to:
 - i. Whether Defendant disseminated false and misleading information by claiming the Products were natural;
 - ii. Whether the Class and Sub-Class members were informed that the Products contained synthetic ingredients;
 - iii. Whether the Products contain synthetic ingredients;
 - iv. Whether Defendant's conduct was unfair and deceptive;
 - v. Whether Defendant unjustly enriched itself as a result of the unlawful conduct alleged above;
 - vii. Whether there should be a tolling of the statute of limitations; and
 - viii. Whether the Class and Sub-Class members are entitled to restitution, actual damages, punitive damages, and attorneys' fees and costs.

- c. Plaintiff's claims are typical of the Class and the Sub-Class, which all arise from the same operative set of facts and are based on the same legal theories
- d. Plaintiff has no interests adverse or antagonistic to the interests of the other members of the Class and the Sub-Class.
- e. Plaintiff will fairly and adequately protect the interests of the Class and the Sub-Class and Plaintiff has retained experienced and competent attorneys to represent the Class and the Sub-Class.
- f. This class action is a fair and efficient adjudication of the controversy alleged herein. Plaintiff anticipates that no unusual difficulties are likely to be encountered in the management of this class action.
- g. This class action will permit large numbers of similarly situated persons to prosecute their common claims in a single forum simultaneously and without the duplication of effort and expense that numerous individual actions would engender. This class action will also permit the adjudication of relatively small claims by many Class and Sub-Class members who would not otherwise be able to afford to seek legal redress for the wrongs complained of herein. Absent a class action, Class and Sub-Class members will continue to suffer losses of legally protected rights, as well as monetary damages. If Defendants' conduct is allowed proceed to without remedy, Defendants will continue to benefit financially from such conduct.
- h. Defendants have acted on grounds generally applicable to the entire Class and Sub-Class, thereby making it appropriate for the Court to order final

monetary, injunctive, and declaratory relief with respect to the Class and the Sub-Class as a whole.

45. Defendant, its employees and agents are excluded from the Class and Sub-Class. Plaintiff does not know the number of members in the Class and Sub-Class, but believes the members number in the thousands, if not more. Thus, this matter should be certified as a Class Action to assist in the expeditious litigation of the matter.

46. The size and definition of the Class and Sub-Class can be identified by Defendant's own records.

COUNT I
VIOLATIONS OF THE ILLINOIS CONSUMER FRAUD AND
DECEPTIVE BUSINESS PRACTICES ACT, 815 ILCS 505/1, et seq.

47. Plaintiff incorporates all of the allegations and statements made in Paragraphs 1 through 46 above as if fully reiterated herein.

48. Plaintiff is a "person" as defined in 815 ILCS 505/1(c), as he is a natural person.

49. Defendant is a "person" as defined in 815 ILCS 505/1(c), as it is a company and a business entity and/or association.

50. 815 ILCS 505/2 states:

Unfair methods of competition and unfair or deceptive acts or practices, including but not limited to the use or employment of any deception fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact, or the use or employment of any practice described in Section 2 of the "Uniform Deceptive Trade Practices Act", approved August 5, 1965, in the conduct of any trade or commerce are hereby declared unlawful whether any person has in fact been misled, deceived or damaged thereby.

51. Through its representation that the Products were natural, Defendant made false promises, misrepresentations, concealments, suppressions, and omissions of material facts, with

the intent that Plaintiff rely upon said false promises, misrepresentations, concealments, suppressions, and omissions of material facts.

52. 815 ILCS 505/10a states:

(a) Any person who suffers actual damage as a result of a violation of this Act committed by any other person may bring an action against such person. The court, in its discretion may award actual economic damages or any other relief which the court deems proper...

(c) [T]he Court may grant injunctive relief where appropriate and may award, in addition to the relief provided in this Section, reasonable attorney's fees and costs to the prevailing party.

53. In taking the actions and omissions set forth above, and making the false promises, misrepresentations, concealments, suppressions, and omissions of material facts set forth above, Defendant violated the Illinois Consumer Fraud and Deceptive Business Practices Act, including, but not limited to, 815 ILCS 505/2.

54. Defendant failed to comply with the requirements of the ILCFA, including, but not limited to, 815 ILCS 505/2 as to the Class and Sub-Class members with respect to the above-alleged transactions

55. By reason thereof, Plaintiff is entitled to a judgment against Defendant, declaring that Defendant's conduct violated 815 ILCS 505/2, enjoining Defendant from engaging in similar conduct in the future, and awarding actual damages, punitive damages, injunctive relief, costs, and attorneys' fees.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for a judgment against Defendant as follows:

- a. An order certifying the Class and the Sub-Class and appointing Plaintiff as Representative of the Class and the Sub-Class;

- b. An order certifying the undersigned counsel as the Class and Sub-Class Counsel;
- c. An order requiring Defendant, at its own cost, to notify all members of the Class and the Sub-Class of the unlawful, unfair, deceptive, and unconscionable conduct herein;
- d. Judgment against Defendant in an amount to be determined at trial;
- e. An order for injunctive relief prohibiting such conduct by Defendant in the future;
- f. Judgment against Defendant for Plaintiff's attorneys' fees, court costs, and other litigation costs; and
- g. Any other relief deemed just and proper by this Court.

COUNT II
COMMON LAW FRAUD

56. Plaintiff incorporates all of the allegations and statements made in Paragraphs 1 through 46 above as if fully reiterated herein.

57. Through its false statements that the Products were natural, Defendant made false statements of material fact.

58. At the time Defendant made its statements to Plaintiff that the Products were natural, it knew, or reasonably should have known, that the statements described above were false.

59. At the time Defendant made the statements to Plaintiff, Defendant intended to induce Plaintiff to purchase the Products.

60. Plaintiff relied upon the truth of the statements described above and purchased the Products, only to find that the Product he purchased contained synthetic ingredients.

61. As a result of their reasonable reliance upon Defendant's false statements of material fact as set forth above, Plaintiff and other members of the Class and Sub-Class have suffered concrete and particularized injuries, harm, and damages which include, but are not limited to, the loss of money spent on products they did not want to buy, and stress, aggravation, frustration, inconvenience, emotional distress, mental anguish, and similar categories of damages.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for a judgment against Defendant as follows:

- a. An order certifying the Class and the Sub-Class and appointing Plaintiff as Representative of the Class and the Sub-Class;
- b. An order certifying the undersigned counsel as the Class and Sub-Class Counsel;
- c. An order requiring Defendant, at its own cost, to notify all members of the Class and the Sub-Class of the unlawful, unfair, deceptive, and unconscionable conduct herein;
- d. Judgment against Defendant in an amount to be determined at trial;
- e. An order for injunctive relief prohibiting such conduct by Defendant in the future;
- f. Judgment against Defendant for Plaintiff's attorneys' fees, court costs, and other litigation costs; and
- g. Any other relief deemed just and proper by this Court.

COUNT III
UNJUST ENRICHMENT

62. Plaintiff incorporates all of the allegations and statements made in Paragraphs 1 through 46 above as if fully reiterated herein.

63. Plaintiff conferred monetary benefits to Defendant by purchasing the Products.

64. Defendant has been unjustly enriched by retaining the revenues derived from Plaintiff's purchase of the Products based on the false statements that the Products were natural.

65. Defendant's retention of the revenue it received from Plaintiff, and the Class and Sub-Class members, is unjust and inequitable because Defendant's false statements caused injuries to Plaintiff, and the Class and Sub-Class members, as they would not have purchased the Products, or would not have paid a premium price, if they knew the Products contained artificial ingredients.

66. Defendant's unjust retention of the benefits conferred on it by Plaintiff, and the Class and Sub-Class members, entitles Plaintiff, and the Class and Sub-Class members, to restitution of the money they paid to Defendant for the Products.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for a judgment against Defendant as follows:

- h. An order certifying the Class and the Sub-Class and appointing Plaintiff as Representative of the Class and the Sub-Class;
- i. An order certifying the undersigned counsel as the Class and Sub-Class Counsel;
- j. An order requiring Defendant, at its own cost, to notify all members of the Class and the Sub-Class of the unlawful, unfair, deceptive, and unconscionable conduct herein;
- k. Judgment against Defendant in an amount to be determined at trial;
- l. An order for injunctive relief prohibiting such conduct by Defendant in the future;

- m. Judgment against Defendant for Plaintiff's attorneys' fees, court costs, and other litigation costs; and
- n. Any other relief deemed just and proper by this Court.

JURY DEMAND

Plaintiff demands a trial by jury on all issues in this action so triable, except for any issues relating to the amount of attorneys' fees and costs to be awarded should Plaintiff prevail on any of his claims in this action.

RESPECTFULLY SUBMITTED,

MICHAEL DALY



Steve G. Perry
Attorney for Plaintiff
Cook County Attorney No.: 63294
Illinois Attorney No. 6330283
Law Offices of Todd M. Friedman, P.C.
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Steven.perry@toddfllaw.com

Appearance and Jury Demand *

(12/01/20) CCG 0009

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

COUNTY _____ DEPARTMENT/ 1st DISTRICT

CHANCERY DIVISION

MICHAEL DALY

Plaintiff

v.

NESTLE PURINA PETCARE COMPANY

Defendant

Case No. _____

Claimed \$: _____

Return Date: _____ Time: _____

Court Date: _____ Room No.: _____

Address of Court District for Filing _____

APPEARANCE AND JURY DEMAND *

☒ General Appearance☒ 0900 - Fee Paid☐ 0904 - Fee Waived☒ Jury Demand *☐ 0908 - Trial Lawyers Appearance - No Fee☐ 1900 - Appearance and Jury Demand/Fee Paid☒ Twelve-person Jury☐ 1904 - Appearance and Jury Demand/No Fee Paid☐ Six-person JuryThe undersigned enters the appearance of: ☒ Plaintiff ☐ Defendant

Litigant's Name: Michael Daly

Signature: _____

☒ Initial Counsel of Record☐ Pro Se (Self-represented)☐ 2810 Rule 707 Out-of-State Counsel
(pro hac vice)☐ Additional Appearance☐ Substitute Appearance☒ Atty. No.: 63294☐ Pro Se 99500

Name: Steven Perry Law Offices of Todd M. Friedman, P.C.

Atty. for (if applicable):

Michael Daly, Plaintiff

Address: 707 Skokie Blvd., Suite 600

City: Northbrook

State: IL Zip: 60062 Phone: 224-218-0875

Primary Email: steven.perry@toddlaw.com

*** Strike demand for trial by jury if not applicable.**

I certify that a copy of the within instrument was served on all parties who have appeared and have not heretofore been found by the Court to be in default for failure to plead.

IMPORTANT

Once this Appearance form is filed, photocopies of this form must be sent to all other parties named in this case (or to their attorneys) using either regular mail, fax, email or personal delivery. (See Illinois Supreme Court Rules 11 and 13 for more information.)

Pro Se Only:

☐ I have read and agree to the terms of Clerk's Office

Electronic Notice Policy and choose to opt in to electronic notice from the Clerk's office for this case at this email address:

Email: _____

Attorney for ☒ Plaintiff ☐ Defendant

Iris Y. Martinez, Clerk of the Circuit Court of Cook County, Illinois

cookcountyclerkofcourt.org

Appearance and Jury Demand *

(12/01/20) CCG 0009

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

COUNTY _____ DEPARTMENT/ 1st DISTRICT

MICHAEL DALY

Plaintiff

v.

NESTLE PURINA PETCARE COMPANY

Defendant

Case No. _____ CHANCERY DIVISION

Claimed \$: _____

Return Date: _____ Time: _____

Court Date: _____ Room No.: _____

Address of Court District for Filing

APPEARANCE AND JURY DEMAND *

☒ General Appearance☒ 0900 - Fee Paid☐ 0904 - Fee Waived☐ Jury Demand *☐ 0908 - Trial Lawyers Appearance - No Fee☐ 1900 - Appearance and Jury Demand/Fee Paid☐ Twelve-person Jury☐ 1904 - Appearance and Jury Demand/No Fee Paid☐ Six-person JuryThe undersigned enters the appearance of: ☒ Plaintiff ☐ Defendant

Litigant's Name: Michael Daly

Signature: _____

☐ Initial Counsel of Record☐ Pro Se (Self-represented)☐ 2810 Rule 707 Out-of-State Counsel
(pro hac vice)☒ Additional Appearance☐ Substitute Appearance☒ Atty. No.: 57323 ☐ Pro Se 99500

Name: Todd M. Friedman, Law Offices of Todd M. Friedman PC

Atty. for (if applicable):

Michael Daly, Plaintiff

Address: 21031 Ventura Blvd., #340

City: Woodland Hills

State: CA Zip: 91364 Phone: 323-306-4234

Primary Email: tfriedman@toddfllaw.com

*** Strike demand for trial by jury if not applicable.**

I certify that a copy of the within instrument was served on all parties who have appeared and have not heretofore been found by the Court to be in default for failure to plead.

IMPORTANT

Once this Appearance form is filed, photocopies of this form must be sent to all other parties named in this case (or to their attorneys) using either regular mail, fax, email or personal delivery. (See Illinois Supreme Court Rules 11 and 13 for more information.)

Pro Se Only:

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Email: _____

Attorney for ☒ Plaintiff ☐ Defendant

Iris Y. Martinez, Clerk of the Circuit Court of Cook County, Illinois

cookcountyclerkofcourt.org

Chancery Division Civil Cover Sheet
General Chancery Section

(12/01/20) CCCH 0623

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

MICHAEL DALY

Plaintiff

v.

NESTLE PURINA PETCARE COMPANY

Defendant

Case No: _____

CHANCERY DIVISION CIVIL COVER SHEET
GENERAL CHANCERY SECTION

A Chancery Division Civil Cover Sheet - General Chancery Section shall be filed with the initial complaint in all actions filed in the General Chancery Section of Chancery Division. The information contained herein is for administrative purposes only. Please check the box in front of the appropriate category which best characterizes your action being filed.

Only one (1) case type may be checked with this cover sheet.

0005 ☐ Administrative Review
0001 ☒ Class Action
0002 ☐ Declaratory Judgment
0004 ☐ Injunction

0007 ☐ General Chancery
0010 ☐ Accounting
0011 ☐ Arbitration
0012 ☐ Certiorari
0013 ☐ Dissolution of Corporation
0014 ☐ Dissolution of Partnership
0015 ☐ Equitable Lien
0016 ☐ Interpleader

0017 ☐ Mandamus
0018 ☐ Ne Exeat
0019 ☐ Partition
0020 ☐ Quiet Title
0021 ☐ Quo Warranto
0022 ☐ Redemption Rights
0023 ☐ Reformation of a Contract
0024 ☐ Rescission of a Contract
0025 ☐ Specific Performance
0026 ☐ Trust Construction
0050 ☐ Internet Take Down Action (Compromising Images)
☐ Other (specify) _____

☒ Atty. No.: 63294 ☐ Pro Se 99500

Atty Name: Steven Perry, Law Offices of Todd M. Friedman, PC

Atty. for: Michael Daly, Plaintiff

Address: 707 Skokie Blvd., Suite 600

City: Northbrook State: IL

Zip: 60062

Telephone: 224-218-0875

Primary Email: steven.perry@toddfllaw.com

Pro Se Only: ☐ I have read and agree to the terms of the Clerk's Clerk's Office Electronic Notice Policy and choose to opt in to electronic notice from the Clerk's office for this case at this email address:

Email: _____

Iris Y. Martinez, Clerk of the Circuit Court of Cook County, Illinois
cookcountyclerkofcourt.org